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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,377	07/01/2003	Mark Edward Kane	3805-016-27 CIP	1196
24510	7590	07/13/2006	EXAMINER	
DLA PIPER RUDNICK GRAY CARY US LLP			NGUYEN, CUONG H	
ATTN: PATENT GROUP			ART UNIT	PAPER NUMBER
1200 NINETEENTH STREET, NW				3661
WASHINGTON, DC 20036				

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/609,377	KANE ET AL.	
	Examiner CUONG H. NGUYEN	Art Unit 3661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 04 April 2006.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-24 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 15 is/are rejected.  
 7) Claim(s) 16-21 is/are objected to.  
 8) Claim(s) 1-24 are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

***DETAILED ACTION***

1. This Office Action is followed a response to a Pre. Appeal Brief conference Request mailed on 3/02/06, the examiner withdraws a Final Rejection (11/03/05), and introducing what was suggested from that conference.
2. Claims 1-24 are pending in this application.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

Claim 15 is directed to a method of supplying signal, comprising:

- determine a vehicle's speed;
- determining a signal parameter wherein that signal is from a wheel sensor;
- generating a "correct" signal from a wheel sensor having above parameter; and
- supplying that "corrected" signal.

- This claim should have more explanation, so that one with ordinary skill in the art can duplicate this invention without trial and error – *it is vague and unclear in present form*, that is, "Is that clear enough about: a method of supplying a corrected wheel sensor signal" (knowing that "correct" is a term of degree/relative, and this is unclear in a claim) or essentially: "a method of supplying a signal"; and "what parameter is claimed here?" is essential to the claimed invention but not elaborated in the claim.

4. Dependent claims 16-21 are objected because they are depend on a rejected claim 15.

The examiner also introduces a restriction requirement in this action since this is not pointed out by the previous examiner.

Election/Restriction

5. The examiner respectfully submits that the election to one of the following inventions is deemed necessary.

6. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-14 are drawn to a method, or a system for determining a size of a locomotive's wheel, classified in US class 701, subclass 19.

II. Claims 15-21 are drawn to a method of determining a size of a wheel using a vehicle's speed, rotation information from a tachometer (this is not necessarily within an application for a locomotive; according to what claim, this applies for all vehicles using wheels - in general), classified in US class 701, subclass 22.

II. Claims 22-24 are drawn to a method of supplying a vehicle's signal (this claim is also unclear because of that introduction), classified in US class 324, subclass 166.

7. The inventions (group I, group II, and group III) are distinct by above claimed groups, each from the other because of the following reasons:

Inventions Group I, Group II, and Group III are related as determining a wheel size by different ways. In this case, (II) confirms that claims 22-24 are directed to a generic way to determine a vehicle's wheel size), not particularly "for a train" of group I, or not using indefinite signal's parameter to claim about determining a wheel size.

8. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classifications, restriction for examination purposes as indicated is proper.

### Conclusions

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CUONG H. NGUYEN whose telephone number is 571-272-6759. The examiner can normally be reached on 9:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THOMAS G. BLACK can be reached on 571-272-6956. The Rightfax number for the organization where this application is assigned is 571-273-6759.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Please provide support, with page and line numbers, for any amended or new claim in an effort to help advance prosecution; otherwise any new claim language that is introduced in an amended or new claim may be considered as new matter, especially if the Application is a Jumbo Application.

  
CUONG H. NGUYEN  
Primary Examiner  
Art Unit 3661